IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1312 OF 1999
IN
EXECUTION APPLICATION NO.153 OF 1995
IN
ENGLAND SUIT NO.193-P-361 OF 1993

Pullig and Co. Plaintiffs

versus

Nikhil Natwarlal Jariwala and
Natwarlal Thakordas Jariwala Defendants

Mr.Zal Andhyarujina with Mr.Mehorji i/by Gagrat & Co. for plaintiffs.

None for defendants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th April 2006

PC :

1. This Chamber Summons was filed in the year 1999 and an order was passed by this Court on 10th August 2000 adjourning the same to Court for recording evidence. Thereafter, the matter has appeared from time to time and by my order dated 14th March 2006 I had recorded the fact that the advocate for the applicant has obtained discharge from the proceedings. However, he appeared

before me on 14th March 2006 only to inform me that he obtained discharge after addressing a communication to the applicant at the address mentioned in the cause title of the Chamber Summons. The statement of learned advocate that he has obtained discharge, was recorded by me and I directed the office to issue notice to the applicant at the address mentioned in the cause title.

2. Notice issued by the office was sent at the same address but it has come back with a postal remark that the applicant does not reside at this address nor any person named Mrs.Meera Raju Bhatt is residing at this address.

3. Ordinarily, therefore, the proper course would have been to issue fresh notice or a public notice but having perused the record with the assistance of Shri Andhyarujina for the decree holder and noticing a statement in the affidavit filed in reply to this Chamber Summons and more particularly paragraph 4(k,l and m) and noticing that a Civil Suit bearing No.221 of 1999 is pending in the City Civil Court wherein Court Receiver is appointed of this property, it is clear to me that the sale of this property in

execution of the decree passed in favour of the decree holder before me cannot go through till the proceedings conclude before City Civil Court.

4. The issue, therefore, in this Chamber Summons is purely academic. The Chamber Summons is, therefore, dismissed leaving the issue open for decision in case the applicant desires to move at a later stage. It would be open for her to do so. All contentions of both sides in that behalf are kept open. Chamber Summons disposed of with liberty as above.

(S.C.DHARMADHIKARI, J.)